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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,957	09/27/2000	Inching Chen	ITL1780US (P9234)	8316
21906 7590 01/26/2009 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER CZEKAJ, DAVID J				
ART UNIT 2621		PAPER NUMBER		
MAIL DATE 01/26/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* INCHING CHEN

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Application 09/671,957  
Technology Center 2600

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Mailed: January 26, 2009

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Before PAMELA S. BENNETT, *Review Team Paralegal*.

BENNETT, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 22, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

### **EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed May 1, 2008 is deficient because the "Evidence Relied Upon" section fails to include the Krishnamurthy et al. reference cited on page 4 which involves the rejection of claims 7-9, 13 and 36-38 under 35 U.S.C. 103(a). Appropriate correction is required.

### **SUPPLEMENTAL RESPONSE TO OFFICE ACTION**

Appellants filed a paper entitled "Supplemental Response to Office Action" dated April 9, 2008. There is no indication on the record that the Examiner has considered the above-noted paper.

### **CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

1) to issue a PTO-90 citing the missing Krishnamurthy et al. reference listed under the Evidence Relied Upon section, paragraph (8);

2) to consider the “Supplemental Response to Office Action” dated April 9, 2008; and

3) for such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

PSB

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